

House Bill 1438

By: Representatives Reese of the 98th, Coan of the 101st, Smith of the 131st, Williams of the 165th, Drenner of the 86th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated,
2 relating to generation and distribution of electricity generally, so as to promote the
3 development of renewable energy in Georgia through the implementation of a renewable
4 energy portfolio standard for use of renewable energy by certain electric utilities; to provide
5 for legislative intent and purpose; to provide for short title; to provide definitions; to provide
6 for standard goals; to provide for standard portfolio goals to be met through energy produced
7 in Georgia or renewable energy certificates; to provide for reports; to provide for the
8 adoption of rules for implementation; to establish the Renewable Energy Board; to impose
9 an implementation fee to recover the costs of administering the portfolio standard goals; to
10 provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 1 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to
14 generation and distribution of electricity generally, is amended by inserting a new part to be
15 designated Part 4 to read as follows:

16 "Part 4

17 46-3-60.

18 This part shall be known and may be cited as the 'Georgia Renewable Portfolio Standard
19 Act.'

20 46-3-61.

21 (a) The General Assembly finds that:

(1) Renewable portfolio standards require electric utilities to provide a specified portion of their power generation from renewable resources, such as biomass, solar, and wind, and recoverable resources, such as landfill gases and solid waste;

(2) At least 16 states and the District of Columbia have mandated renewable portfolio standards, and at least two other states have voluntary renewable portfolio standards;

(3) Georgia imports more than 98 percent of the fuels used to generate electricity in the state, in the form of coal, natural gas, and nuclear fuel, and the price of natural gas and coal has been rising at an alarming rate;

(4) Implementing a requirement for using renewable and recoverable resources to generate 4 percent of the electricity used by Georgians could save Georgia consumers a considerable amount of money on an annual basis and could earn Georgia's farmers and foresters a significant amount each year for biomass used to generate the renewable energy;

(5) Increased use of renewable and recoverable resources to generate electricity and increased energy efficiency could reduce harmful emissions, particularly from existing coal fueled generation plants; and

(6) Increased use of biomass for the generation of electric power can be an excellent tool for economic development, particularly in rural areas, where biomass is available.

(b) It is the intent of the legislature to recognize the economic, environmental, and fuel diversity benefits of renewable energy resources and to encourage the establishment of a market for renewable energy in Georgia using the state's renewable energy resources and to encourage the further development of those resources. The legislature finds that there may be more that the state can do to encourage the development and implementation of renewable energy. These efforts can reduce the amount of imported oil and natural gas used for the generation of electricity. Accordingly, the legislature finds that it should establish standards for certain electric utilities to guide them in incorporating renewable resources into their resource portfolios to reduce the use of imported oil.

(c) The purpose of this part is to lessen this state's dependence on imported oil and natural gas by encouraging the greater use of renewable energy by establishing goals for electric utility companies in implementing renewable and recoverable portfolio standards.

46-3-62.

As used in this part, the term:

(1) 'Commission' means the Georgia Public Service Commission.

(2) 'Electric service provider' means any electric utility company engaged in the business of distributing electricity to retail electric customers in this state. Electric service

1 provider for purposes of this part shall not include electric membership corporations or
2 municipal electric utilities.

3 (3) 'Renewable energy' means any resource that is naturally regenerated over a short time
4 scale and derived directly from the sun, such as thermal, photochemical, and
5 photoelectric; indirectly from the sun, such as wind, hydropower, and photosynthetic
6 energy stored in biomass; from organic waste materials; or from other natural movements
7 and mechanisms of the environment, such as geothermal and tidal energy. Renewable
8 energy does not include energy resources derived from fossil fuels, waste products from
9 fossil sources, or waste products from inorganic sources.

10 (4) 'Renewable energy certificate' means a certificate that can be used by electric service
11 providers to establish compliance with the renewable portfolio standard and may include
12 certificates that are monitored, accounted for, or transferred by or through a regional
13 system or trading program for any region in which an electric service provider is located.

14 46-3-63.

15 (a) It is the goal of this state to increase the use of renewable energy resources by requiring
16 that a minimum percentage of electricity sold by electric service providers for retail
17 consumption in this state be generated in this state from renewable energy resources or be
18 derived from the renewable energy certificate equivalent of such energy. Beginning on
19 January 1, 2007, a minimum of one-half of 1 percent of the kilowatt hours of electricity
20 sold annually for retail consumption in this state by each electric service provider shall be
21 from a renewable energy resource in Georgia or be derived from the renewable energy
22 certificate equivalent of such energy. The minimum percentage shall increase by one-half
23 of 1 percent until January 1, 2014, on an annual basis so that on and after such date a
24 minimum of 4 percent of the kilowatt hours of electricity sold annually to retail electric
25 customers for consumption in this state shall be generated from renewable energy resources
26 in Georgia or shall be derived from the renewable energy certificate equivalent of such
27 energy.

28 (b) When an electric service provider has reached the standard goal of 4 percent of
29 kilowatt hours of electricity sold annually for retail consumption, the electric service
30 provider shall maintain a renewable energy portfolio of at least 4 percent of its annual net
31 electricity sales.

32 (c) The commission shall fine each electric service provider that fails to reach a portfolio
33 standard goal set out in subsection (a) of this Code section. If the discrepancy between the
34 portfolio standard goal and the achievement of the electric service provider is 100

1 megawatts or more, the fine shall be 0.25 percent of the electric service provider's annual
2 net electricity sales.

3 (d) For electric service providers subject to rate determination by the commission, the cost
4 of purchases of energy and energy credits to meet the renewable energy portfolio standard
5 goals or to meet such goals early shall be included in the rate base as expenses of the
6 electric service provider in such rate determination. Penalties imposed by the commission
7 for failure to achieve the standard goals for renewable energy portfolios in accordance with
8 this part shall not be included in the rate base as expenses of the electric service provider
9 in rate determination for electric service providers subject to rate determination by the
10 commission.

11 (e) The commission shall adopt rules and regulations implementing the provisions of this
12 Code section.

13 46-3-64.

14 (a) The commission shall promulgate rules and regulations regulating a system of
15 renewable energy certificates issued by private third parties that can be used by an electric
16 service provider to establish compliance with the renewable portfolio standard.

17 (b) The kilowatt-hour value of a renewable energy certificate may be varied by renewable
18 energy resource technology, provided that each renewable energy certificate shall have a
19 minimum value of one kilowatt-hour of renewable energy represented by the certificate for
20 purpose of compliance with the renewable energy portfolio standard.

21 (c) The electric service provider shall be responsible for demonstrating that a renewable
22 energy certificate used for compliance with the renewable portfolio standard is derived
23 from eligible renewable energy resources and has not been retired, traded, sold, or
24 otherwise transferred to another party.

25 46-3-65.

26 (a) There is established the Renewable Energy Board for the purpose of increasing the
27 supply of renewable energy and renewable energy certificates available for compliance in
28 future years by obligated entities with renewable energy standard requirements.

29 (b) The board shall consist of five members as follows:

30 (1) The chairperson of the Public Service Commission or the chairperson's designee,
31 who shall be the chairperson of the board;

32 (2) The director of the Georgia Environmental Facilities Authority or the director's
33 designee;

- 1 (3) The director of the Governor's Office of Consumer Affairs or the director's designee;
2 and
- 3 (4) Two members of the public at large appointed by Governor, of whom one shall be
4 a representative of an organization that advocates for renewable energy development.
5 Both such members shall serve terms of three years; provided, however, that no public
6 member may serve more than two consecutive three year terms.
- 7 (c) Each member shall hold office for the term appointed and until the member's successor
8 shall have been duly appointed and qualified, or until the member's earlier death,
9 conviction of a felony, resignation, or removal.
- 10 (d) Not later than 90 days from its appointment, the board must make and submit to Public
11 Service Commission for approval such bylaws, rules, regulations, and resolutions as are
12 necessary to carry out its responsibilities.
- 13 (e) The board shall meet not less than quarterly and shall meet at other times upon the call
14 of the chairperson, issued to the board members in writing not less than 48 hours prior to
15 the day and hour of the meeting, or upon a request for a meeting presented in writing to the
16 chairperson not less than 72 hours prior to the proposed day and hour of the meeting and
17 signed by at least a majority of the board members, whereupon the chairperson shall
18 provide notice issued in writing to the board members not less than 48 hours prior to the
19 meeting and shall convene the meeting at the time and place stated in the request.
- 20 (f) Three board members shall constitute a quorum to transact business at any meeting, and
21 the affirmative vote of three board members shall be necessary for any action taken by the
22 board.
- 23 (g) Members of the board shall receive no compensation for the performance of their
24 duties but may be reimbursed for necessary and actual expenses incurred in carrying out
25 their duties.
- 26 (h) The board shall recommend to the Public Service Commission:
- 27 (1) Ways to stimulate investment in renewable energy development;
28 (2) Standards to be applied to renewable energy certificates used by an electric service
29 provider to establish compliance with the renewable portfolio standard;
30 (3) Incentives to encourage the development of new renewable energy sources for this
31 state; and
32 (4) Rules and regulations to be adopted concerning the renewable portfolio standard and
33 renewable energy certificates.
- 34 (i) The board shall be attached to the Public Service Commission for administrative
35 purposes only.

1 46-3-66.

2 Beginning on January 1, 2008, the commission shall track the amount of electricity from
3 renewable resources sold in this state in order to measure progress toward the renewable
4 energy goal established in this part. On or before January 1 of each following year, the
5 commission shall report to the standing committees of the General Assembly having
6 jurisdiction over utilities on the percentage of electricity sold in this state that comes from
7 renewable energy resources.

8 46-3-67.

9 (a) Costs of administration of portfolio standard goals incurred by the commission shall
10 be recovered by an implementation fee. The implementation fee shall be assessed monthly
11 to each electric service provider. This monthly assessment will be one-half of 1 percent
12 of the revenue derived from the retail sale of electricity and the sale of renewable energy
13 certificates in this state.

14 (b) The funds collected from the implementation fee shall be deposited into the general
15 fund of the State of Georgia."

16 **SECTION 2.**

17 All laws and parts of laws in conflict with this Act are repealed.